

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

GLORIA PAYER¹,

Petitioner,

v.

**REX RICHARD, Warden, Community
Corrections Center - Lincoln,**

Respondent.

4:11-cv-03007-LSC-FG3

ORDER

Gloria Payer, a Nebraska inmate, filed a Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254, together with a motion for leave to proceed in forma pauperis (#2). The court requested a copy of the petitioner's institutional trust account statement, which was received and filed January 27, 2011.

Habeas corpus cases challenging the legality of a person's confinement require the payment of \$5.00 fee. 28 U.S.C. § 1914(a). The court has reviewed the petitioner's declaration (#2), together with the financial information supplied by the State of Nebraska Department of Correctional Services (#11). Petitioner's trust account statement shows that the average deposits to her account during the months of August 2010 through December 2010 exceeded \$100 per month. The court concludes that the petitioner must be required to pay the \$5.00 filing fee because she has the financial ability to do so.

¹The petition for writ of habeas corpus (#1) gives the petitioner's name as "Gloria J. Payer," and the Declaration in support of motion to proceed in forma pauperis (#2) is signed by "Gloria J. Payer." State court records submitted by the petitioner with a request for judicial notice reflect that the petitioner's name is "Gloria W. Payer" (#6 at p. 6). Tribal records submitted by the petitioner bear the name "Gloria Jean Payer" (#6 at p. 8). The court will refer to the petitioner as "Gloria Payer."

IT IS ORDERED:

1. Petitioner's Motion to proceed in forma pauperis (#2) is denied.
2. Petitioner is granted until **February 15, 2011** to pay the \$5.00 filing fee. If the fee is not paid as required, the court may dismiss this case without further notice.
3. The Clerk of the court is directed to set a case management deadline using the following text: February 15, 2011: deadline for Petitioner to pay \$5.00 filing fee.

DATED January 28, 2011.

BY THE COURT:

**s/ F.A. Gossett, III
United States Magistrate Judge**